

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JANUARY 9, 2008**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-25058 - APPLICANT/OWNER: TIMOTHY O'ROURKE, ET AL**

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**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to:

**Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-25057) shall be required.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance to allow a zero-foot side yard setback where 10 feet is the minimum required in conjunction with a proposed Contractor's Plant, Shop and Storage Yard on 0.51 acres at 1700 Western Avenue.

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by designing a commercial building that will encroach into the required side yard setbacks. Denial is therefore the recommendation. An alternative that reduces the square footage of the proposed commercial buildings and observes all required M (Industrial) Zone setbacks would allow conformance to the Title 19 requirements.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
05/17/06	The City Council approved a change the Future Land Use (GPA-9219) designation to Commercial, Mixed Use, Industrial or Public Facilities on various parcels located within the proposed Las Vegas Redevelopment Plan area and within the proposed Redevelopment Plan expansion area.
11/29/07	<a href="#">The Planning Commission recommended approval of companion item SDR-25057 concurrently with this application.</a>  <a href="#">The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #40/jm).</a>
<b><i>Related Building Permits/Business Licenses</i></b>	
09/02/04	Code Enforcement cited (#21200) the property for allowing oil into the street and running into the storm drains. The citation was resolved on 09/24/04.
<b><i>Pre-Application Meeting</i></b>	
09/25/07	A pre-application meeting was held with the applicant. The applicant informed staff that they are proposing a contractor's storage yard on the site. Staff informed the applicant that this would require a Site Development Plan Review application. In addition, the proposed building does not meet side yard setback requirements and would require a Variance and Waivers for perimeter landscape buffer requirements would have to be requested. Submittal requirements were then discussed in detail.
<b><i>Field Check</i></b>	
10/31/07	A field check was made on site. The site is currently undeveloped with industrial uses surrounding the parcel.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	0.51

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Undeveloped	LI/R (Light Industrial/ Research)	M (Industrial)
North	Shops	LI/R (Light Industrial/ Research)	M (Industrial)
South	Shops	LI/R (Light Industrial/ Research)	M (Industrial)
East	Auto shop, Office	LI/R (Light Industrial/ Research)	M (Industrial)
West	Office	LI/R (Light Industrial/ Research)	M (Industrial)

<b>Special Districts/Zones</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
<b>Special Area Plan</b>			
Redevelopment Plan Area	X		Y
<b>Special Districts/Zones</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
<b>Special Purpose and Overlay Districts</b>			
A-O (Airport Overlay) District (200 Feet)	X		Y
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

## DEVELOPMENT STANDARDS

*Pursuant to Title 19.08, the following development standards apply:*

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Min. Lot Width	100 Feet	100 Feet	Y
Min. Setbacks			
• Front	10 Feet	10 Feet	Y
• Side	10 Feet	Zero Feet	N*
• Corner	10 Feet	N/A	N/A
• Rear	Zero Feet	N/A	N/A
Max. Building Height	N/A	20 Feet	Y
Trash Enclosure	Screened	Curbside pickup	Y
Mech. Equipment	Screened	Screened	Y

*A Variance (VAR-25058) has been requested.*

## **ANALYSIS**

The proposal is located in the M (Industrial) Zoning District is consistent with the Light Industry/Research category of the General Plan. The Light Industry / Research category allows areas appropriate for clean, low-intensity (non-polluting and non-nuisance) industrial uses, including light manufacturing, assembling and processing, warehousing and distributions, and research, development and testing laboratories. Contractor's Plant, Shop and Storage Yard is a permitted use in M (Industrial) zone.

The site plan shows a proposed one-story, 7,560 square-foot building with two bay doors facing toward the north. The building is located on the south portion of the 0.51 acre parcel. Per Title 19.08.050, M (Industrial) zoned property is required to be setback 10 feet from the side property line. The applicant is requesting a setback of zero feet on the south portion of the site. A physical hardship to allow a setback variance is not apparent on this parcel. The large lot could accommodate a smaller addition to fit within the required setbacks.

In conjunction with this Variance request a Site Development Plan Review (SDR-25057) for a proposed 7,560 square-foot Contractor's Plant, Shop and Storage Yard has been requested by the applicant.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature."

Additionally, Title 19.18.070(L) states:

"Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution."

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by designing a commercial building that will encroach into the required side yard setbacks. An alternative that reduces the square footage of the proposed commercial buildings and observes all required M (Industrial) Zone setbacks would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 14

**ASSEMBLY DISTRICT** 9

**SENATE DISTRICT** 10

**NOTICES MAILED** 97 by City Clerk

**APPROVALS** 6

**PROTESTS** 0